

ASSEMBLY BILL

No. 1473

Introduced by Assembly Member Lieber

February 21, 2003

An act to amend Sections 14043.2, 14043.36, and 14043.65 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1473, as introduced, Lieber. Medi-Cal: fraud: provider disqualification.

(1) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Existing law authorizes the department to adopt regulations for certification of each applicant and each provider in the Medi-Cal program. Existing law provides that whether or not these regulations are adopted, in order to be enrolled as a provider, or for enrollment as a provider to continue, an applicant or provider may be required to sign a provider agreement and to disclose all information as required in federal medicaid regulations and any other information required by the department.

This bill, instead, would require an applicant or provider to sign a provider agreement and to disclose the above information.

(2) Existing law provides that failure to disclose the required information, or the disclosure of false information, in connection with enrollment or continued enrollment of a provider, shall result in denial of the application for enrollment or shall make the provider subject to temporary suspension from the Medi-Cal program.

This bill would provide that failure by an applicant or provider to disclose the required information or the disclosure of false information shall result in permanent disqualification from enrollment or participation in the Medi-Cal program.

(3) Existing law prohibits the department from enrolling any applicant that has been convicted of any felony or misdemeanor involving fraud or abuse under specified circumstances within the previous 10 years.

This bill would eliminate the 10-year time period for these convictions. It would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14043.2 of the Welfare and Institutions
2 Code is amended to read:

3 14043.2. (a) Whether or not regulations for certification are
4 adopted under Section 14043.15, in order to be enrolled as a
5 provider, or for enrollment as a provider to continue, an applicant
6 or provider ~~may be required to~~ *shall* sign a provider agreement and
7 shall disclose all information as required in federal medicaid
8 regulations and any other information required by the department.
9 Applicants, providers, and persons with an ownership or control
10 interest, as defined in federal medicaid regulations, shall submit
11 their social security number or numbers to the department, to the
12 full extent allowed under federal law. The director may designate
13 the form of a provider agreement by provider type. Failure to
14 disclose the required information, or the disclosure of false
15 information, shall result in ~~denial of the application for enrollment~~
16 *permanent disqualification from enrollment*, or shall make the
17 provider subject to ~~temporary suspension~~ *permanent*
18 *disqualification from participation*, in the Medi-Cal program;
19 ~~which shall include temporary deactivation of all provider~~
20 ~~numbers used by the provider to obtain reimbursement from the~~
21 ~~Medi-Cal program.~~

22 (b) The director shall notify the provider of the ~~temporary~~
23 ~~suspension~~ *permanent disqualification* and deactivation of the
24 provider's Medi-Cal provider number or numbers and the
25 effective date ~~thereof~~ *of the permanent disqualification.*



1 Notwithstanding Section 100171 of the Health and Safety Code
2 and Section 14123, proceedings after the imposition of sanctions
3 provided for in subdivision (a) shall be in accordance with Section
4 14043.65.

5 SEC. 2. Section 14043.36 of the Welfare and Institutions
6 Code is amended to read:

7 14043.36. (a) The department shall not enroll any applicant
8 that has been convicted of any felony or misdemeanor involving
9 fraud or abuse in any government program, or related to neglect
10 or abuse of a patient in connection with the delivery of a health care
11 item or service, or in connection with the interference with or
12 obstruction of any investigation into health care related fraud or
13 abuse or that has been found liable for fraud or abuse in any civil
14 proceeding, or that has entered into a settlement in lieu of
15 conviction for fraud or abuse in any government program, ~~within~~
16 ~~the previous 10 years~~. In addition, the department may deny
17 enrollment to any applicant that, at the time of application, is under
18 investigation by the department or any state, local, or federal
19 government law enforcement agency for fraud or abuse pursuant
20 to Subpart A (commencing with Section 455.12) of Part 455 of
21 Title 42 of the Code of Federal Regulations. The department shall
22 not deny enrollment to an otherwise qualified applicant whose
23 felony or misdemeanor charges did not result in a conviction solely
24 on the basis of the prior charges. If it is discovered that a provider
25 is under investigation by the department or any state, local, or
26 federal government law enforcement agency for fraud or abuse,
27 that provider shall be subject to temporary suspension from the
28 Medi-Cal program, which shall include temporary deactivation of
29 all provider numbers used by the provider to obtain reimbursement
30 from the Medi-Cal program.

31 (b) The director shall notify in writing the provider of the
32 temporary suspension and deactivation of the provider's Medi-Cal
33 provider number or numbers, which shall take effect 15 days from
34 the date of the notification. Notwithstanding Section 100171 of the
35 Health and Safety Code, proceedings after the imposition of
36 sanctions provided for in subdivision (a) shall be in accordance
37 with Section 14043.65.

38 SEC. 3. Section 14043.65 of the Welfare and Institutions
39 Code is amended to read:

1 14043.65. (a) Notwithstanding any other provision of law,
2 any applicant whose application for enrollment as a provider or
3 whose certification is denied; or any provider who is denied
4 continued enrollment or certification, who has been temporarily
5 suspended, who has had payments withheld, who has had one or
6 more provider numbers used to obtain reimbursement from the
7 Medi-Cal program deactivated pursuant to this article or Section
8 14107.11, or who has had a civil penalty imposed pursuant to
9 Section 14123.25; or any billing agent, as defined in Section
10 14040, when the billing agent's registration has been denied
11 pursuant to subdivision (e) of Section 14040.5, may appeal this
12 action by submitting a written appeal, including any supporting
13 evidence, to the director or the director's designee. ~~Where~~ When
14 the appeal is of a withholding of payment pursuant to Section
15 14107.11, the appeal to the director or the director's designee shall
16 be limited to the issue of the reliability of the evidence supporting
17 the withhold and shall not encompass fraud or abuse. The appeal
18 procedure shall not include a formal administrative hearing under
19 the Administrative Procedure Act and shall not result in
20 reactivation of any deactivated provider numbers during appeal.
21 An applicant, provider, or billing agent that files an appeal
22 pursuant to this section shall submit the written appeal along with
23 all pertinent documents and all other relevant evidence to the
24 director or to the director's designee within 60 days of the date of
25 notification of the department's action. The director or the
26 director's designee shall review all of the relevant materials
27 submitted and shall issue a decision within 90 days of the receipt
28 of the appeal. The decision may provide that the action taken
29 should be upheld, continued, or reversed, in whole or in part. The
30 decision of the director or the director's designee shall be final.
31 Any further appeal shall be required to be filed in accordance with
32 Section 1085 of the Code of Civil Procedure.

33 (b) No applicant whose application for enrollment, as a
34 provider, has been denied pursuant to Section ~~14043.2, 14043.36,~~
35 ~~or~~ 14043.4 may reapply for a period of three years from the date
36 the application is denied. Where the provider has appealed the
37 denial, the three-year period shall commence upon the date of final
38 action by the director or the director's designee.

O

